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PATENT

19603/3431 (CRF D-2716A)

TECH CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Harman et al.

Serial No. : 09/927,984

Cnfrm. No. : 5985

Filed : August 10, 2001

For : PRODUCTION AND USE OF INDUCIBLE
ENZYMES FROM TRICHODERMA AND
BACTERIA FOR CONTROL OF PLANT
PESTS AND FOR INDUSTRIAL
PROCESSES

Examiner:

Unknown

Art Unit:

1623

**PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW
HOLDING OF ABANDONMENT**

Mail Stop: Petitions

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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FEB 04 2004

TECHNOLOGY CENTER R3700

Dear Sir:

Applicants hereby petition under 37 C.F.R. § 1.181 to withdraw the holding of abandonment for the above-referenced patent application for failure to timely or properly reply to the Notice to File Missing Parts mailed on September 21, 2001.

Applicants received a Notice of Abandonment Under 37 CFR § 1.53(f) or (g) mailed December 17, 2003, (attached hereto as Exhibit 1), stating that no reply was received to the Notice to File Missing Parts.

However, on November 28, 2001, applicants filed a complete and timely Reply to the Notice to File Missing Parts ("Reply"). As identified in the Transmittal Letter of the Reply, the following items were enclosed: (a) Two Combined Declaration and Power of Attorney forms; (b) a Request for One-Month Extension of Time; (c) a Response to Notice to Comply with 37 C.F.R. §§ 1.821-1.825; (d) a copy of the Notice to File Missing Parts; (e) a

self-addressed, prepaid postcard for acknowledging receipt; and (f) a check in the amount of \$120.00 representing the surcharge under 37 C.F.R. § 1.16(e) and the one-month extension of time filing fees. Copies of all papers filed in the Reply are attached hereto as Exhibit 2. The original postcard was returned from the U.S. Patent and Trademark Office ("USPTO"), date-stamped as received by the USPTO on January 3, 2002 (copy attached hereto as Exhibit 3). The original returned postcard has a yellow tint, suggesting it was subjected to an anthrax decontamination treatment.

Applicants submit that the Notice of Abandonment was due to PTO error in the misplacement of the Reply papers, therefore, a petition under 37 C.F.R. § 1.137 is unwarranted.

Thus, pursuant to 37 C.F.R. § 1.181, and in view of all of the foregoing, applicants respectfully request that the holding of abandonment be withdrawn because the Response and Request for One-Month Extension of Time were timely filed.

Although applicants believe that no fee is due upon consideration of this Petition, the Commissioner is authorized to charge any necessary fees to Deposit Account No. 14-1138.

Respectfully submitted,

Date: January 13, 2004



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| Certificate of Mailing - 37 CFR 1.8(a) | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450, on the date below. | |
| Date | <u>January 13, 2004</u> <u>Jo Ann Whalen</u> |
| | JO ANN WHALEN |